

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1001(ss) be amended to read as follows:

- 1 Page 202, between lines 1 and 2, begin a new paragraph and insert:
- 2 "SECTION 216. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]:
- 5 **Chapter 9. Local Option Sales Tax for Property Tax**
- 6 **Replacement**
- 7 **Sec. 1. Except as otherwise provided in this chapter, the**
- 8 **definitions contained in IC 6-2.5-1 apply throughout this chapter.**
- 9 **Sec. 2. As used in this chapter, "civil taxing unit" means an**
- 10 **entity having the power to impose ad valorem property taxes. In**
- 11 **the case of a consolidated city, the term includes the consolidated**
- 12 **city and all special taxing districts, all special service districts, and**
- 13 **all other entities of the consolidated city with budgets and property**
- 14 **tax levies that are subject to review under IC 36-3-6-9.**
- 15 **Sec. 3. As used in this chapter, "county fiscal body" means a**
- 16 **county council under IC 36-2-3 or a city-county council under**
- 17 **IC 36-3-4.**
- 18 **Sec. 4. (a) Using procedures described in this chapter, a county**
- 19 **fiscal body may, by majority vote, adopt an ordinance to impose or**
- 20 **rescind the local option gross retail tax for property tax**
- 21 **replacement in the county.**
- 22 **(b) Before a county fiscal body may adopt an ordinance to**
- 23 **impose or rescind a tax under this chapter, the county fiscal body**

1 must hold a public hearing on the proposed ordinance. The county  
2 fiscal body must provide notice in accordance with IC 5-3-1 to the  
3 public of the time and place that the public hearing will be held.

4 Sec. 5. (a) The county fiscal body may impose a local option  
5 gross retail tax on the transactions described in section 6 of this  
6 chapter. A county fiscal body adopting an ordinance under this  
7 section must indicate in the ordinance the date the tax becomes  
8 effective.

9 (b) A tax imposed under this chapter may not take effect until  
10 at least sixty (60) days after the date the ordinance imposing the  
11 tax is adopted.

12 Sec. 6. (a) Except as provided in section 7 of this chapter, the tax  
13 imposed under this chapter by a county fiscal body applies to retail  
14 transactions that occur within the county.

15 (b) Retail transactions that are services described in  
16 IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11 are considered as  
17 having occurred within the county in which the services are  
18 provided.

19 Sec. 7. (a) A tax imposed under this chapter does not apply to a  
20 transaction to the extent that the transaction is exempt from the  
21 state gross retail tax under IC 6-2.5.

22 (b) A tax imposed under this chapter does not apply to the gross  
23 retail income derived from a unitary retail transaction to the extent  
24 the gross retail income is attributable to a tax under IC 6-2.5 or  
25 IC 6-9.

26 Sec. 8. A county fiscal body that has imposed a tax under this  
27 chapter may adopt an ordinance to rescind the tax. The county  
28 fiscal body must specify in the ordinance the date the rescission of  
29 the tax takes effect.

30 Sec. 9. If a county fiscal body adopts an ordinance to impose or  
31 rescind a tax under this chapter, the county fiscal body shall  
32 immediately send a certified copy of the ordinance to the  
33 department of state revenue.

34 Sec. 10. (a) A tax imposed under this chapter may be imposed  
35 only on the gross retail income derived from retail transactions. If  
36 the tax imposed under this chapter for a particular transaction  
37 results in a fraction of one-half cent (\$0.005) or more, the amount  
38 of the tax shall be rounded to the next additional cent.

39 (b) A county fiscal body may adopt a tax under this chapter that  
40 equals any of the following rates:

- 41 (1) Twenty-five hundredths of one percent (0.25%).
- 42 (2) Five tenths of one percent (0.5%).
- 43 (3) Seventy-five hundredths of one percent (0.75%).
- 44 (4) One percent (1%).

45 (c) A county fiscal body shall give notice of an action under this  
46 chapter to the department of local government finance not more  
47 than five (5) business days after adopting an ordinance under this

chapter.

Sec. 11. (a) A person who receives goods or services in a retail transaction that is taxed under this chapter is liable for the tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the goods or services. The retail merchant shall collect the tax as an agent for the state and the county.

(b) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If the county fiscal body does not adopt such an ordinance, the tax imposed under this chapter shall be imposed, paid, and collected in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(c) The department of state revenue shall determine whether a return that is filed for the payment of the tax imposed under this chapter shall be a separate return or shall be combined with the return filed for the payment of the state gross retail tax.

Sec. 12. (a) A special account within the state general fund shall be established for each county adopting the property tax replacement sales tax. Any revenue derived from the imposition of the property tax replacement gross retail tax by a county shall be deposited in that county's account in the state general fund.

(b) Income earned on money held in an account under subsection (a) becomes a part of that account.

(c) Revenue remaining in an account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

Sec. 13. (a) Revenue derived from the imposition of the property tax replacement gross retail tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of property tax replacement sales tax revenue that the department of state revenue, after reviewing the recommendation of the budget agency, estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding year and ending June 30 of the following year.

(b) Before the later of July 2 of each year or sixty (60) days after an ordinance to impose a tax under this chapter is adopted, the department of state revenue, after reviewing the recommendation of the budget agency, shall estimate and certify to the county auditor of each adopting county the amount of property tax replacement gross retail tax revenue that will be collected from that county during the twelve (12) month period beginning July 1 of that year and ending June 30 of the immediately following year. The amount certified is the county's certified distribution for the

1 immediately following year. The amount certified may be adjusted  
2 under subsection (c) or (d).

3 (c) The department of state revenue may certify to an adopting  
4 county an amount that is more than the estimated twelve (12)  
5 month revenue collection if the department of state revenue, after  
6 reviewing the recommendation of the budget agency, determines  
7 that there will be more revenue available for distribution from the  
8 county's account established under section 12 of this chapter.

9 (d) The department of state revenue may certify an amount less  
10 than the estimated twelve (12) month revenue collection if the  
11 department of state revenue, after reviewing the recommendation  
12 of the budget agency, determines that a part of those collections  
13 must be distributed during the current year to enable the county  
14 to receive its full certified distribution for the current year.

15 Sec. 14. (a) One-half (1/2) of each county's certified distribution  
16 for a year shall be distributed from its account established under  
17 section 12 of this chapter to the county treasurer on May 1 and the  
18 other one-half (1/2) on November 1 of that year.

19 (b) Distributions made to a county treasurer under subsection  
20 (a) shall be treated as though they were property taxes that were  
21 due and payable during that same year. The certified distribution  
22 shall be distributed and used by the counties as provided in this  
23 chapter.

24 (c) All distributions from an account established under section  
25 12 of this chapter must be made by warrants issued by the auditor  
26 of state to the treasurer of state ordering the appropriate  
27 payments.

28 Sec. 15. The certified distribution received by a county treasurer  
29 under this chapter shall be allocated, distributed, and used by the  
30 civil taxing units of the county as property tax replacement credits  
31 as provided under sections 16, 17, and 18 of this chapter.

32 Sec. 16. (a) The county's certified distribution for a calendar  
33 year that is to be used as property tax replacement credits shall be  
34 allocated by the county auditor among the civil taxing units of the  
35 county.

36 (b) Except as provided in section 17 of this chapter, the amount  
37 of property tax replacement credits that each civil taxing unit in a  
38 county is entitled to receive during a calendar year is the result  
39 determined under STEP FIVE of the following formula:

40 STEP ONE: Determine that part of the county's certified  
41 distribution that is dedicated to providing property tax  
42 replacement credits for that same calendar year.

43 STEP TWO: Determine the sum of the following:

44 (A) The total property taxes collected by each civil taxing  
45 unit during the calendar year immediately preceding the  
46 calendar year in which the distribution is to be made.

47 (B) The amount of federal revenue sharing funds and

certified shares received under IC 6-3.5-1.1 or homestead credits received under IC 6-3.5-6 by each civil taxing unit during the calendar year immediately preceding the year in which the distribution is to be made to the extent that the receipts are used to reduce the civil taxing unit's property tax levy below the limit imposed by IC 6-1.1-18.5 or another law for that same calendar year.

**STEP THREE: Determine the sum of the following:**

(A) The total property taxes collected by all civil taxing units in the county in the calendar year immediately preceding the calendar year in which the distribution is to be made.

(B) The amount of federal revenue sharing funds and certified shares received under IC 6-3.5-1.1 or homestead credits received under IC 6-3.5-6 by all civil taxing units in the county during that calendar year to the extent that the receipts are used to reduce the county's property tax levy below the limit imposed by IC 6-1.1-18.5 or another law for that same calendar year.

**STEP FOUR: Divide the STEP TWO sum by the STEP THREE sum.**

**STEP FIVE: Multiply the STEP ONE amount by the STEP FOUR quotient.**

(c) The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit in the auditor's county is entitled to receive. The county auditor shall then certify to each civil taxing unit the amount of property tax replacement credits it is entitled to receive during that year. The county auditor shall also certify these distributions to the county treasurer.

**Sec. 17. (a) This section applies to a civil taxing unit that:**

(1) imposes a property tax that is first due and payable in a year in which a distribution is made under this chapter; and  
(2) did not impose a property tax that was first due and payable in the year that immediately precedes the year in which the distribution is made.

(b) A civil taxing unit is entitled to receive part of the property tax replacement credits to be distributed within the county. The amount that the civil taxing unit is entitled to receive during that year is the result determined under STEP FIVE of the following formula:

**STEP ONE: Determine the part of the county's certified distribution that is to be used to provide property tax replacement credits during that year.**

**STEP TWO: Determine the budget of the civil taxing unit for that year.**

**STEP THREE: Determine the aggregate budgets of all civil**

1           taxing units of that county for that year.

2           **STEP FOUR: Divide the STEP TWO amount by the STEP**  
 3           **THREE amount.**

4           **STEP FIVE: Multiply the STEP ONE amount by the STEP**  
 5           **FOUR quotient.**

6           (c) If for a year a civil taxing unit is allocated a proportion of a  
 7           county's property tax replacement credits by this section, the  
 8           formula used in section 16 of this chapter to determine all other  
 9           civil taxing units' property tax replacement credits shall be  
 10          changed for that same year by reducing the amount dedicated to  
 11          providing property tax replacement credits by the amount of  
 12          property tax replacement credits allocated under this section for  
 13          that same year. The department of local government finance shall  
 14          make any adjustments required by this section and provide them  
 15          to the appropriate county auditors.

16          Sec. 18. (a) In determining the amount of property tax  
 17          replacement credits civil taxing units in a county are entitled to  
 18          receive during a year, the department of local government finance  
 19          shall consider only property taxes imposed on tangible property  
 20          that was assessed in that county.

21          (b) If a civil taxing unit is located in more than one (1) county  
 22          and receives property tax replacement credits from one (1) or more  
 23          of the counties, the property tax replacement credits received from  
 24          each county shall be used only to reduce the property tax rates that  
 25          are imposed within the county that distributed the property tax  
 26          replacement credits.

27          (c) A civil taxing unit shall treat any property tax replacement  
 28          credits that it receives or is to receive during a particular year as  
 29          a part of its property tax levy for that same year for purposes of  
 30          fixing its budget and for purposes of IC 6-1.1-18.5, IC 6-1.1-18.6,  
 31          IC 6-1.1-19, and any other statute imposing a property tax levy  
 32          limit."

33          Renumber all SECTIONS consecutively.

(Reference is to HB 1001(ss) as printed June 3, 2002.)

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Representative Dobis